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10/538,082	10/17/2005	Gerhard Mogck	MOGCK, G. ET AL I	3247
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WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER CADUGAN, ERICA E	
			ART UNIT	PAPER NUMBER
			3722	
			MAIL DATE	DELIVERY MODE
			08/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,082

Applicant(s)

MOGCK ET AL.

Examiner

Erica E. Cadugan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-10, 12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/17/07 & 6/8/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawing amendment filed May 17, 2007 is not approved and is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

new Figures 7, 8a, 8b, 9, 10, 11a, 11b, 12a, 12b, 13a, 13b, 13c, 14a, 14b, and 14c all constitute new matter not supported by the original disclosure.

Note that the specification as originally filed does not describe the elements shown in the new figures with a sufficient level of detail to support the showing of these elements in the particular configurations shown in the new figures. Examiner notes that it is difficult (often impossible) to introduce new figures after the date of filing of an application without introducing new matter. Most of the time, such are limited to block diagrams or very simple schematics.

For example, with respect to new Figure 7, the specification as originally filed does not support the showing of a conveyor that is laid out/shaped as shown in Figure 7, nor does it support the showing of the specific stations labeled thereon, nor the showing of such in the order set forth in Figure 7, for example.

A similar situation exists for each of the newly-added figures. For example, it is noted that the specification as originally filed does not support the level of detail shown in Figures 8a and 8b, the particular configuration of "driven element" acting on a tire shown in new Figure 9, nor even the particular configuration of the tire shown in Figure 9, the particular configuration of the "motor-driven element" acting on a "wheel rim", nor the particular configuration of "wheel

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rim” shown in Figure 10, the particular configuration of “motor driven element” acting on a “wheel hub” shown in new Figure 11a, nor the particular configuration of “wheel hub” shown in new Figure 11a, the configuration of “motor vehicle element” shown in new Figure 11b, the particular configuration of a “means for automatically performing accelerating and braking operations” shown in new Figure 12a and 12b, nor the particular configuration of “tire” shown in new Figure 12a, the particular configuration of the “means for overhead conveyance” shown in new Figures 13a-13c (particularly noting that the configuration shown in new Figures 13a-c is of a different configuration than the overhead conveyance arrangement shown in the original figures, see at least original figures 2b and 3b, for example), and the particular configuration of “modular components that perform assembly” shown in new Figures 14a-14c.

Applicant is required to cancel the new matter in the reply to this Office Action.

As a side note, Examiner notes that each of the new figures is titled “Replacement Sheet”. However, these new sheets of drawings do not appear to be replacement (i.e., amended versions of drawing sheets already in the case) sheets, but are actually new drawing sheets, and should be labeled “New Sheet”.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of “assembly units” of claims 14 and 15; the “coupling means” of claim 2; the “supply lines” of claim 2; the “final assembly section” of claim 4; each of the different embodiments of claims 6-8 wherein the motor driven elements act on the “tires”, the “wheel rims” and on the “wheel hubs”; the “means for automatically performing acceleration and braking operations” of claim 9; the “assembly hall” of claim 15; the “conveying mechanism for overhead conveyance of the motor vehicle following

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assembly out of an assembly hall” as set forth in claim 15; the “rework station” of claim 12; and the “vehicle test rig in which the motor vehicle is suspended” as set forth in claim 14 (note that as shown in Figures 5a-5b, it does not appear that the motor vehicle is “suspended”, i.e., from above, but it instead appears that some lower portion of the motor vehicle rests on/is supported on/by the test rig shown), for example, must be shown or the feature(s) canceled from the claim(s). **No new matter should be entered.**

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The amendment filed May 17, 2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall

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introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

the new brief description of the new figures to be added to page 6 (see the above new matter objection to the new figures); .

the language added to the paragraph bridging pages 6-7;

the new paragraph added on page 7 after the last paragraph.

For example, re the added language to the paragraph bridging pages 6-7 describes “lighting” and a “signal light”. The only mention of “lighting” in the original specification was a general teaching on page 3, the second paragraph, that “[I]t is thus possible, in a very short time, to combine completely pre-equipped and tested modules (in respect of power supplies, data transmission, lighting, handling, conveyance, workplace equipment, logistics, Andon and Poka-Yoke) to an assembly line, or to extend or divide the assembly line, without the need for any structural measures”. There is no teaching of a “signal light” at all, nor is there a teaching of any “lighting” or a “signal light” in the particular locations now described (in the addition to the paragraph spanning pages 6-7) and illustrated with respect to new Figures 7 and/or 8a and 8b (noting that the added language to the paragraph spanning pages 6-7 indicates that the lighting and signal light are shown in Figure 7, while the reference numbers in question are not found in new Figure 7, but are instead found in new Figures 8a and 8b).

Likewise, regarding the same paragraph, it is noted that the particular location of a “compressed air supply” as described and shown was not supported in the original specification.

Likewise, regarding the same paragraph, the specification as originally filed did not teach that the “coupling means” was located or configured as now described and shown.

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Likewise, regarding the same paragraph, the specification as originally filed did not teach that the “supply lines” were located or configured as now described and shown.

Likewise, regarding the same paragraph, the specification as originally filed did not appear to teach any sort of “signal system” at all, nor any such “signal system” that was configured and located as now described and shown.

Furthermore, regarding the same paragraph, while the specification as originally filed does teach that “[A]t the coupling points between two individual components, quick-release connectors are provided that ensure the power supply from individual component to individual component”, the specification as originally filed does not support the addition of the element number 19, shown in new Figure 8a, to refer to such “quick-release connectors”, noting that it is not inherent, nor was it explicitly taught in the specification as originally filed, that the “quick-release connectors” were located and configured as now shown and described.

A similar situation exists with the addition of the reference element 20 at the end of the same paragraph.

Re the new paragraph added to page 7, it is noted that the specification as originally filed does not teach “assembling trim”.

Also re the new paragraph added to page 7, it is noted that the specification as originally filed does not provide support for the particular number and arrangement of the units described.

Applicant is required to cancel the new matter in the reply to this Office Action.

4. The disclosure is objected to because of the following informalities: the addition to the last paragraph on page 7 adds the reference element 21 to refer to an overhead conveyance system. None of the original figures in the case include any reference element “21”.

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Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 2-10, 12, and 14-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Re new claims 14 and 15, it is noted that both of these claims set forth a “plurality of conveying mechanisms for assembly a motor vehicle...”. However, it is noted that the specification as originally filed does not appear to teach that any of the conveying mechanisms 3 are used to perform any “assembly” operation of a motor vehicle.

Re claims 5-8, it is noted that as amended, claim 5 sets forth an “antilock brake system (ABS) test rig”. However, while the specification as originally filed does teach an ABS test rig, the specification as originally filed does not support or explicitly teach that such is an “antilock brake system” test rig. Furthermore, it is noted that it is not inherent that “ABS” is an acronym for “antilock brake system”. For example, ABS is commonly used to describe acrylonitrile butadiene styrene, commonly known as ABS plastic. Thus, the mere teaching of an ABS test rig is not sufficient support for an “antilock brake system” test rig.

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7. Claims 3 and 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it appears that --each-- should be inserted in line 2 after “mechanisms” for accuracy and clarity.

Claim Rejections - 35 USC § 103

8. Claims 14, 2-10 and 12, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 1059222 A2 (hereinafter ‘222) in view of Applicant’s Admitted Prior Art (hereinafter AAPA).

‘222 teaches a device/system for the assembling and processing of motor vehicles (see Figures 1-2, for example, also abstract). The device is composed of a plurality of “individual, transportable, modular, interconnectable components”, such as 10, 20, 30 (see Figures 1-3). A plurality of central ones of the “components” 10 are arranged in a line (see paragraph 0012, for example). It is noted that the various components 10, 20, 30 are installed on a flat surface via platforms 11, 21, 31, respectively, “without using pits” (see the Figures). The “device” includes overhead (re claim 3) conveying mechanisms 14/12 (see paragraph 0012, Figure 2, for example, one for each unit 10). The “device” also includes “assembly units”, such as 22, for example, see paragraphs 0012-0013, 0021, and 0023-0024, as well as Figures 1-3, for example.

Note that ‘222 explicitly teaches that the units or “components” 10, 20, and 30 include assembly equipment for assembling the motor vehicles being processed, as well as measuring equipment (which would constitute a “test”), see paragraphs 0003 and 0006, for example. ‘222

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also describes in detail the modular nature of the units or “components” (see at least paragraphs 0004, 0006-0010, and 0023-0025, for example).

Note also that ‘222 explicitly teaches that the various units or “components” are equipped for performing assembling and/or other various processing operations (paragraphs 0002, 0003, 0004, 0007, 0021-0025, and further teaches that the units shown are to be considered non-binding examples of operating units; in other words, the units shown are merely examples, and could be units equipped to perform any desired operation on the workpiece (see especially paragraph 0021).

Re claim 2, see paragraphs 0006, 0018, 0022, and 0023, for example.

Re claim 4, as broadly claimed, it would appear that since the line of units or “components” taught by ‘222 include assembly units, it inherently includes a “final” assembly section since whichever assembly unit is last in the line would be the “final” one, i.e., even if there was only one or only two assembly units, there inherently is a final or last one.

Re claim 9, as set forth in the claim, ‘222 must inherently have some sort of “means provided for automatically performing acceleration and braking operations” on the conveyed motor vehicles, noting that if the previously-described overhead conveyance device can’t be started (which starting operation would inherently include an acceleration of the conveyor/conveyed part) and stopped (which stopping operation would inherently include a “braking” operation of the conveyor/conveyed part), it would not be able to function to convey the motor vehicles as described in the specification of ‘222.

Re claim 10, note that the measuring described previously (paragraph 0006 of ‘222) constitutes a “selected function test”, noting that measuring is a “selected function”.

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Re claims 5-8, '222 does not explicitly teach the specific vehicle test rig claimed.

Re claim 12, '888 does not explicitly teach that one of the modules is configured as a "rework station" in a branch.

However, in the manufacture of motor vehicles, known processing during the manufacturing includes "testing", and specifically testing of a suspended motor vehicle, wherein the vehicle wheels may be set in rotation or braked by motor-driven elements of a roller, braking and ABS test rig, wherein said elements act upon the wheels from the side (, i.e., laterally, re claim 5) of the "tires" (claim 6), "wheel rims" (claim 7), or "wheel hubs" (claim 8), and reworking the manufactured parts in a rework branch.

Also note that this assertion [that that in the manufacture of motor vehicles, known processing during the manufacturing includes, "testing", and specifically testing of a suspended motor vehicle, wherein the vehicle wheels may be set in rotation or braked by motor-driven elements of a roller, braking and ABS test rig, wherein said elements act upon the wheels from the side (i.e., laterally, re claim 5) of the "tires" (claim 6), "wheel rims" (claim 7), or "wheel hubs" (claim 8), and reworking the manufactured parts in a rework branch] is taken to be admitted prior art because Applicant did not previously adequately traverse the Examiner's assertion. See MPEP section 2144.03, section C, for example, noting that a proper traversal of Examiner's Official Notice requires that Applicant state "why the noticed fact is not considered to be common knowledge or well-known in the art". See 37 CFR 1.111(b). See also Chevenard, 139 F.2d at 713, 60 USPQ at 241 ("[I]n the absence of any demand by appellant for the examiner to produce authority for his statement, we will not consider this contention.").

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A general allegation that the claims define a patentable invention without any reference to the examiner's assertion of official notice would be inadequate. (MPEP section 2144.03 C)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have substituted any of the aforescribed specific known processing equipment for the generic processing equipment at various ones of the units or components 10 taught by '222, depending on the desires of the end user, for the purpose of providing a precision automobile (via the testing and/or rework, for example).

Allowable Subject Matter

9. Claim 15, as best understood, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

Response to Arguments

10. Applicant's arguments filed May 17, 2007 have been fully considered but they are not persuasive.

Applicant asserts that EP '222 "fails to disclose or suggest a device for the **final** assembly of motor vehicles".

This is not persuasive. It is noted that Applicant appears to be imparting some sort of special meaning to the term "final" or "final assembly". However, Merriam-Webster's Collegiate Dictionary, 10th ed., defines "final" as "coming at the end: being the last in a series, process, or progress". It is noted that, as broadly claimed, it would appear that since the line of units or "components" taught by '222 include assembly units, it inherently includes a "final" assembly section since whichever assembly unit is last in the line would be the "final" one of

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that line or process, i.e., even if there was only one or only two assembly units, there inherently is a final or last one.

Applicant has asserted that “[F]inal assembly occurs after the assembly line and is a well-defined step in motor vehicle construction” and that “[I]t includes merely the steps of vehicle testing and tuning, which are not concerned with in EP ‘222 at all”.

Firstly, Applicant’s assertions that “final assembly occurs after the assembly line” are unclear as related to the claim language, noting that “final assembly” is still “assembly”, i.e., whether it occurs after some other assembly line or not.

Secondly, it is noted that the claims are not method claims, and thus no “steps” of “testing and tuning” are claimed, and it is further noted that the amendment of 5/17/2007 removed any reference in the claims to “tuning”. Note also that the claims use the open language “comprising”, and thus are not limited to devices “only” or “merely” having the exact structure claimed, i.e., the fact that the reference may teach additional structure is irrelevant since the claims do not include any closed language that limit the claims to only that structure which is claimed.

Note that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant has asserted the following:

According to the prior art, the final assembly was not part of the assembling and processing described in EP '222, but ‘was rather the next production step at the end of the system shown in EP '222’, and its cars were driven by workers from the end of the assembly line and to the vehicle test rig, where the final assembly test (motor, brake, tire test, steering wheel, regulation light test, etc.) where executed. After this test series, the cars were driven by workers out of the test rig in order to be shipped away from the plant.

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However, firstly, it is unclear on what teachings in EP '222 Applicant has based these comments, as no such teachings appear to be found in EP '222, i.e., EP '222 does not appear to teach any of the things that Applicant is asserting.

Secondly, the relevance of these assertions to the present claim language is unclear, noting that EP '222 teaches the broadly claimed "final" assembly as described above.

Additionally, Applicant has asserted the following:

In contrast, Applicants' invention uses an automatic, final, assembly line that incorporates these steps of vehicle testing and tuning as a part of the assembly and processing system. When Applicants' device is recited in claim 14, as amended, this final assembly system is provided which the motor car is continuously transported and tested while being suspended, thereby avoiding a change of the transport system (from a suspension system to another system) within the final assembly line. This feature is in no way disclosed or suggested by the cited references.

However, firstly, it is again noted that the claims in the present application are not method claims including any process "steps". It is again also noted that any reference to "tuning" was removed from the claims in the amendment of May 17, 2007.

Additionally, no feature regarding the motor vehicle being "continuously transported and tested while being suspended, thereby avoiding a change of a transport system (from a suspension system to another system) within the final assembly line" is set forth in the claims.

At best, dependent claim 3 (and any claims depending therefrom) is/are the only claim(s) to bring in the use of a "mechanism for overhead conveyance", which it is noted that EP '222 teaches (see the tram rail conveyance equipment 14, Figure 2, and paragraph 0012, for example, as well as the rejection based on EP '222 above).

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Again, although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

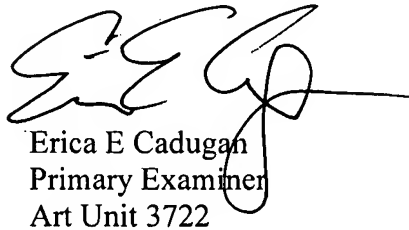
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on M-F, 6:30 a.m. to 4:00 p.m., alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Erica E Cadugan
Primary Examiner
Art Unit 3722

eec
August 2, 2007

REPLACEMENT SHEET



Not approved
EEC
8/1/07

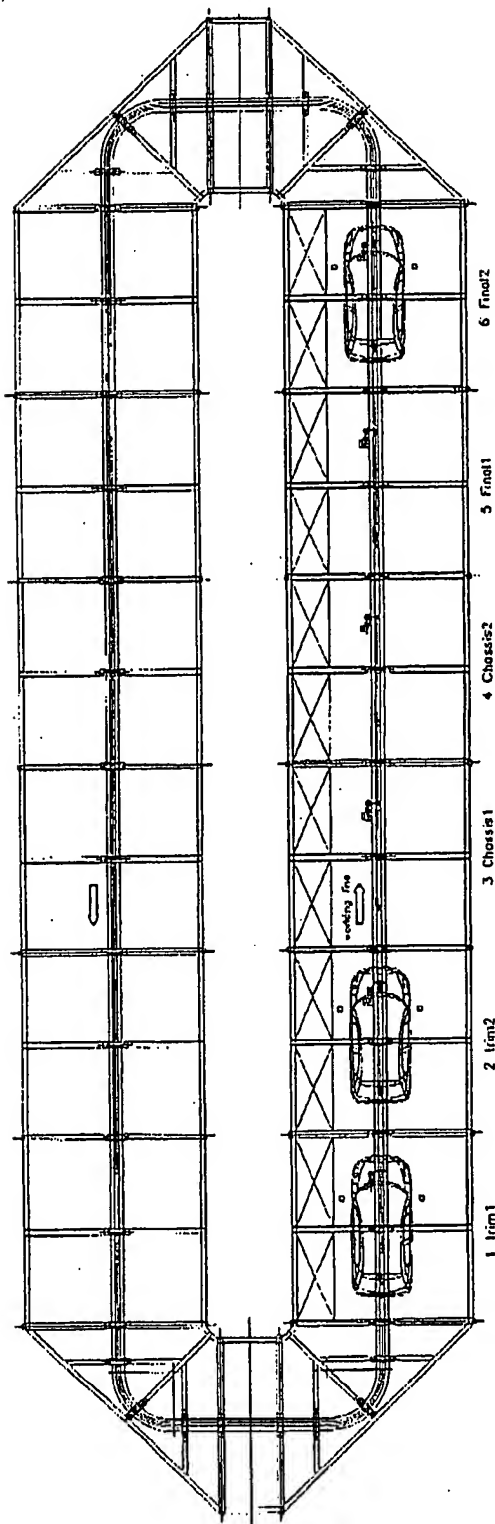


FIG. 7

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REPLACEMENT SHEET

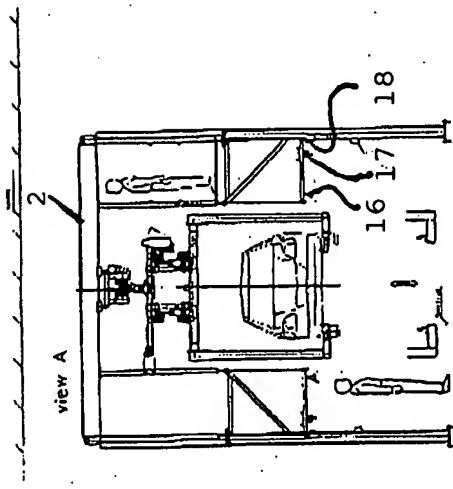


FIG. 8b

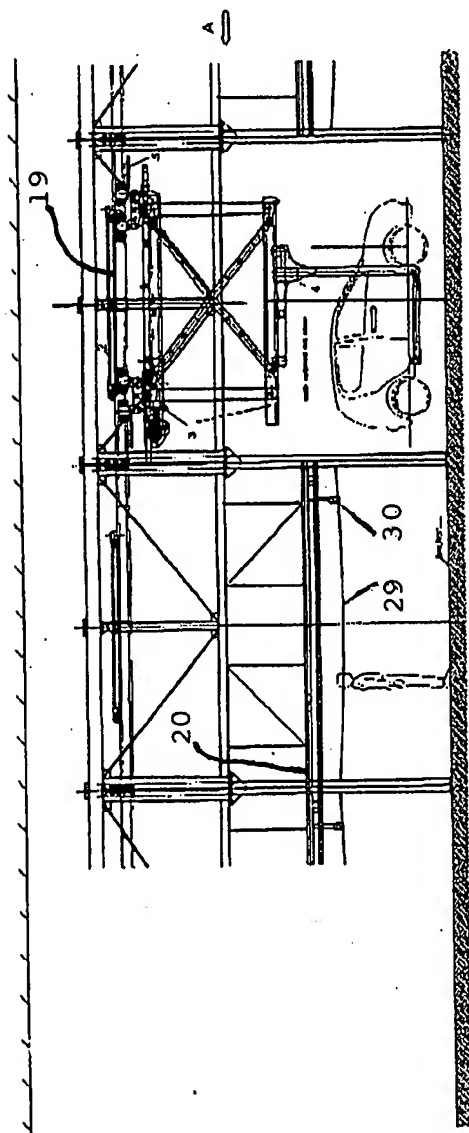


FIG. 8a

REPLACEMENT SHEET

Not approved
EEC
8/1/07

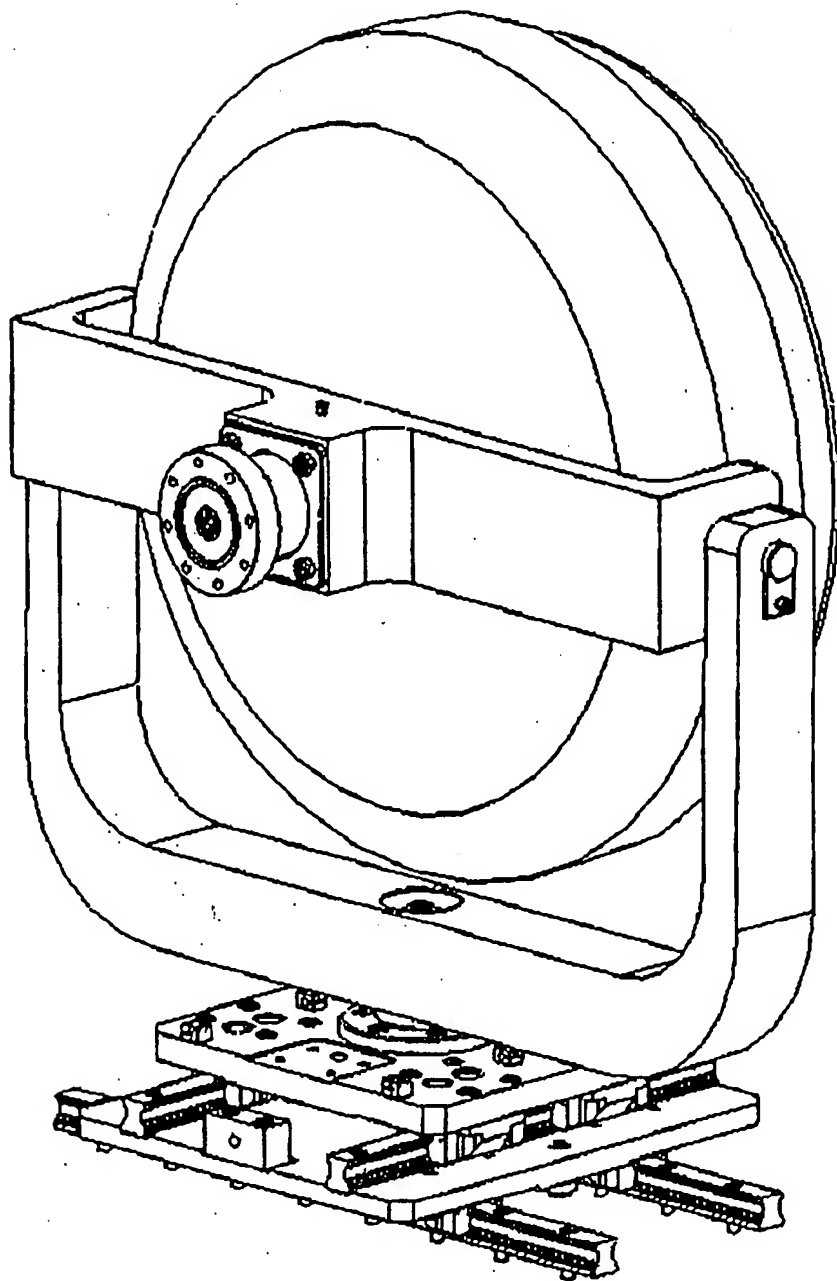


FIG. 9

REPLACEMENT SHEET

Not Approved
EEC
8/1/07

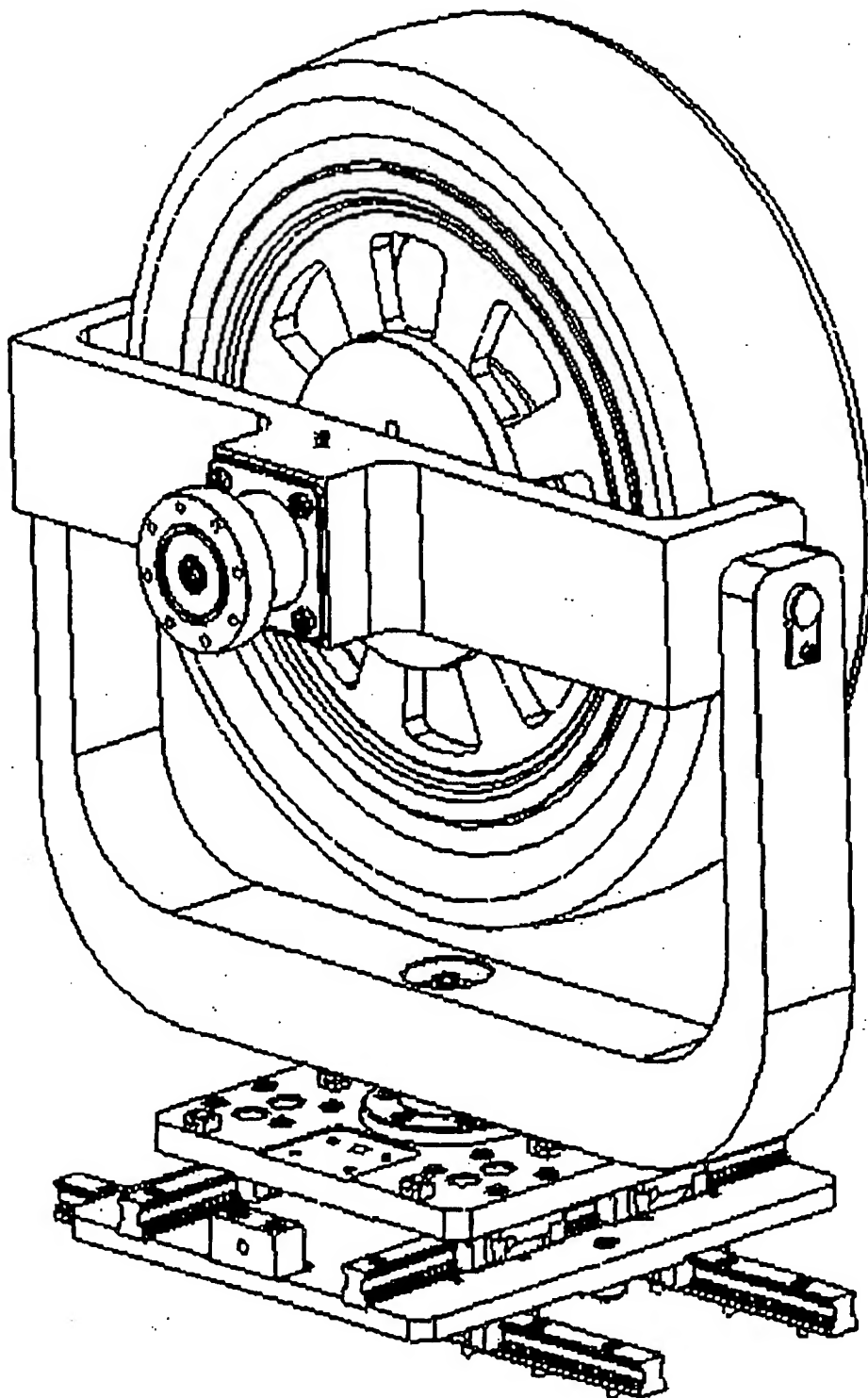


FIG. 10

REPLACEMENT SHEET

Not Approved
8/1/07
GCL

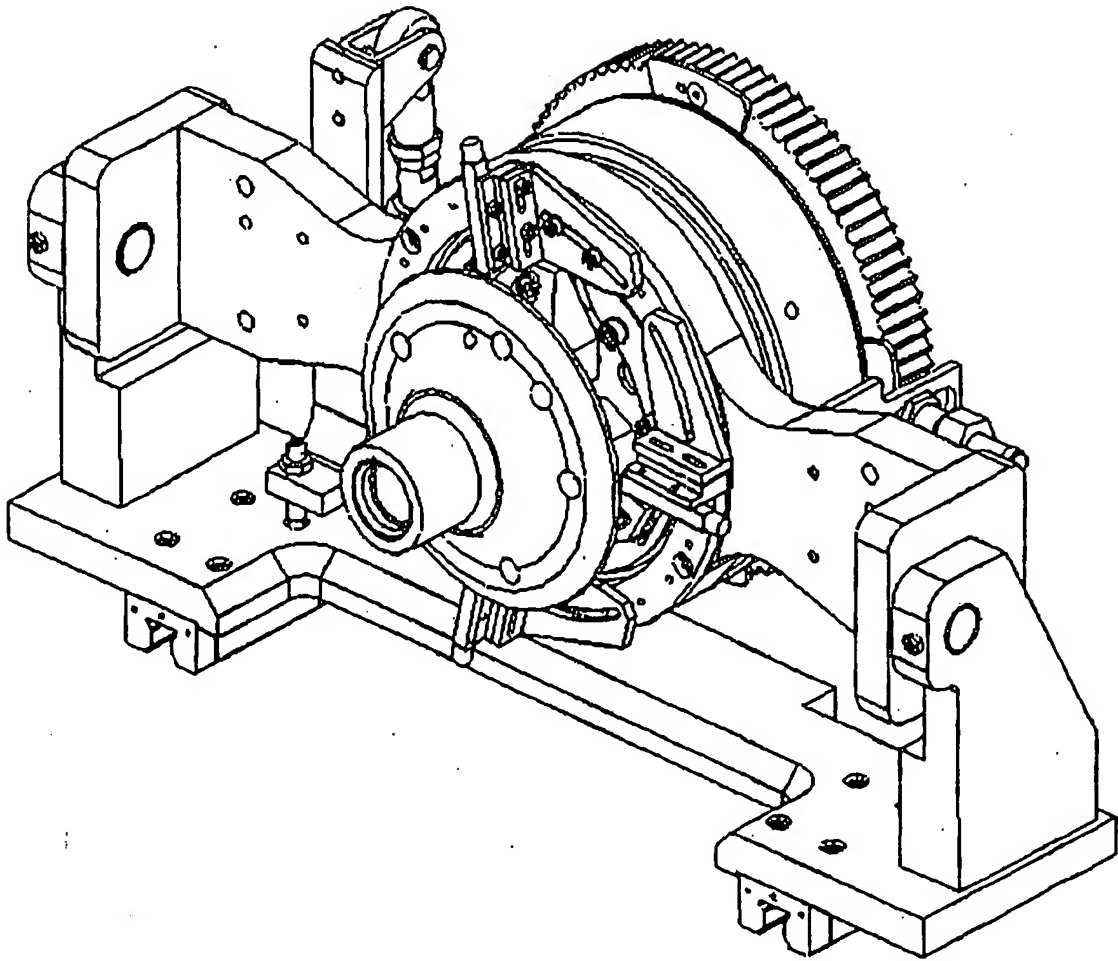


FIG 11a

REPLACEMENT SHEET

Not
approved
EEC
8/1/07

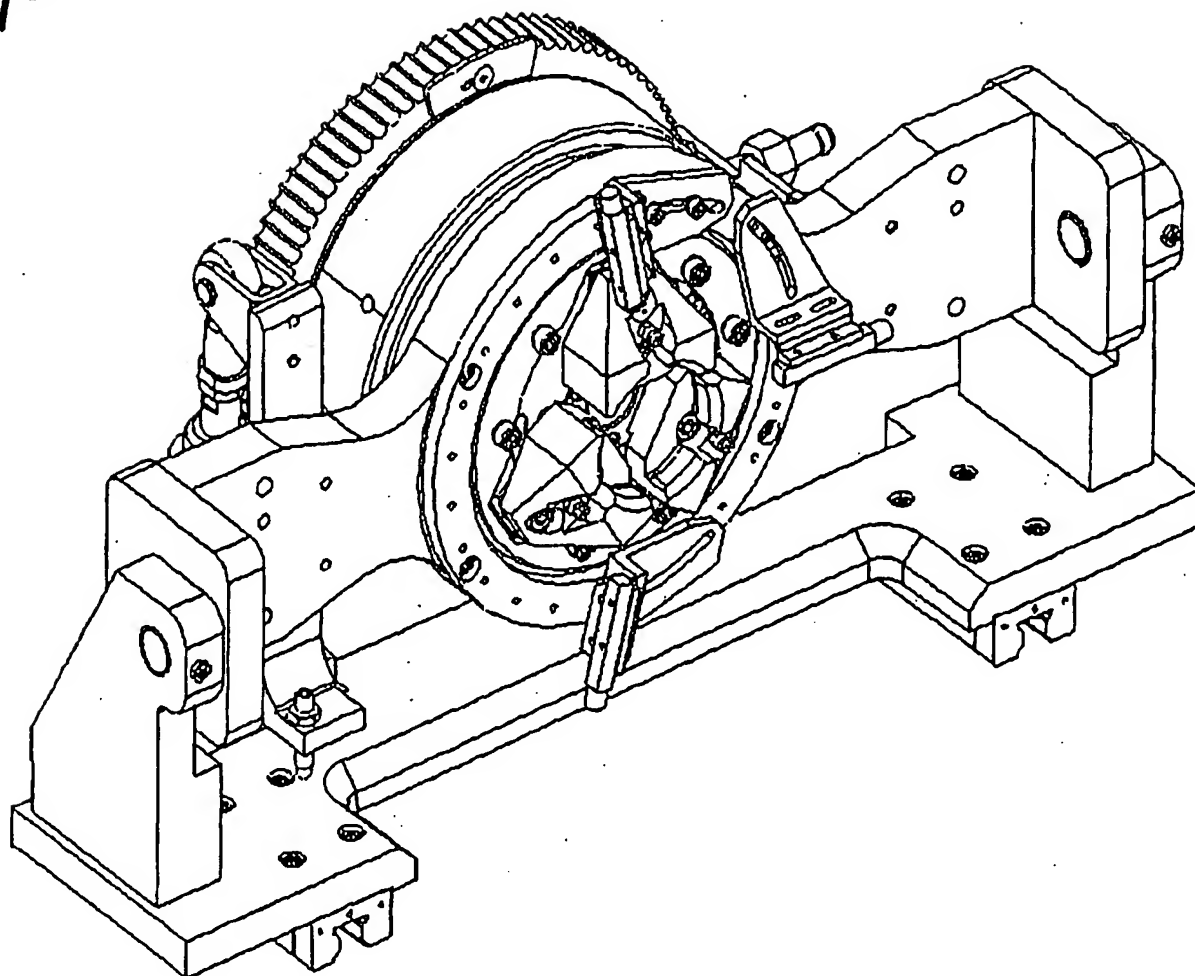


FIG. 11b

REPLACEMENT SHEET

Not Approved
SEC
8/1/07

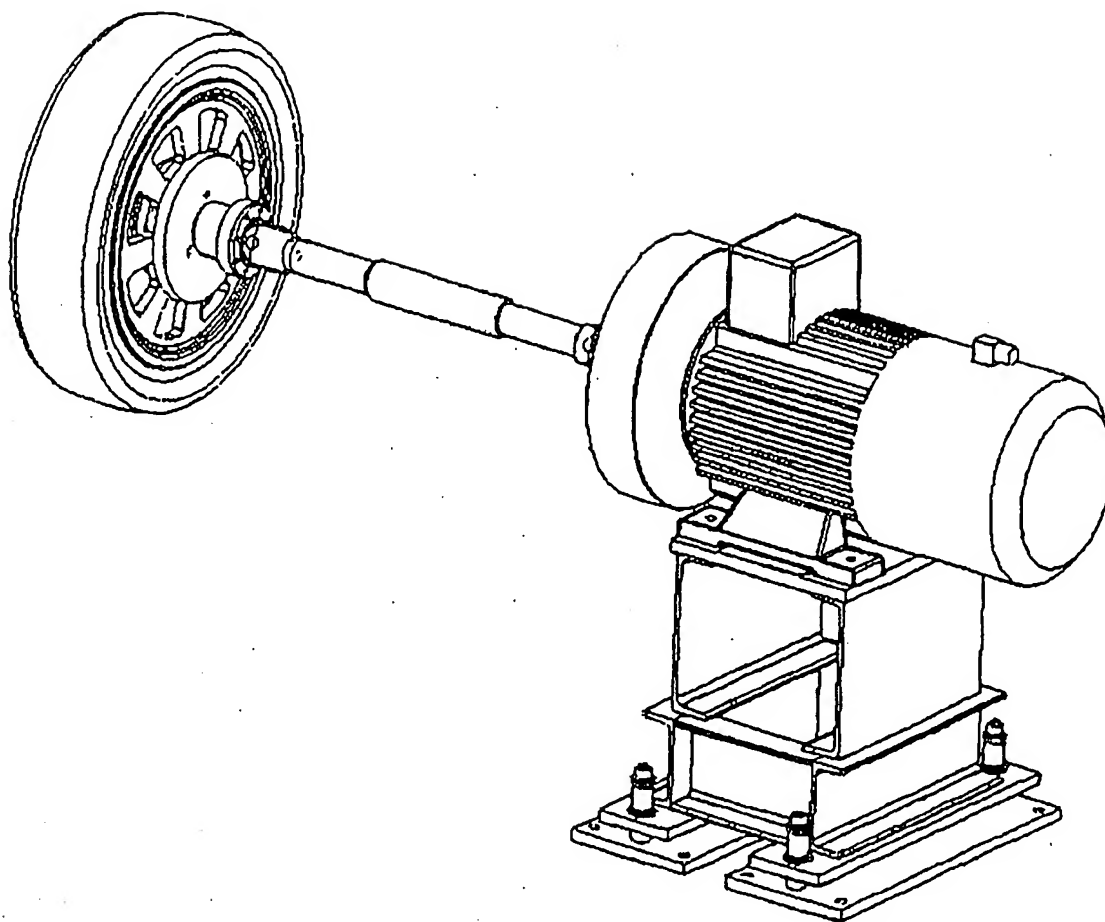


FIG. 12a

REPLACEMENT SHEET

Not Approved
8/1/07
EGC

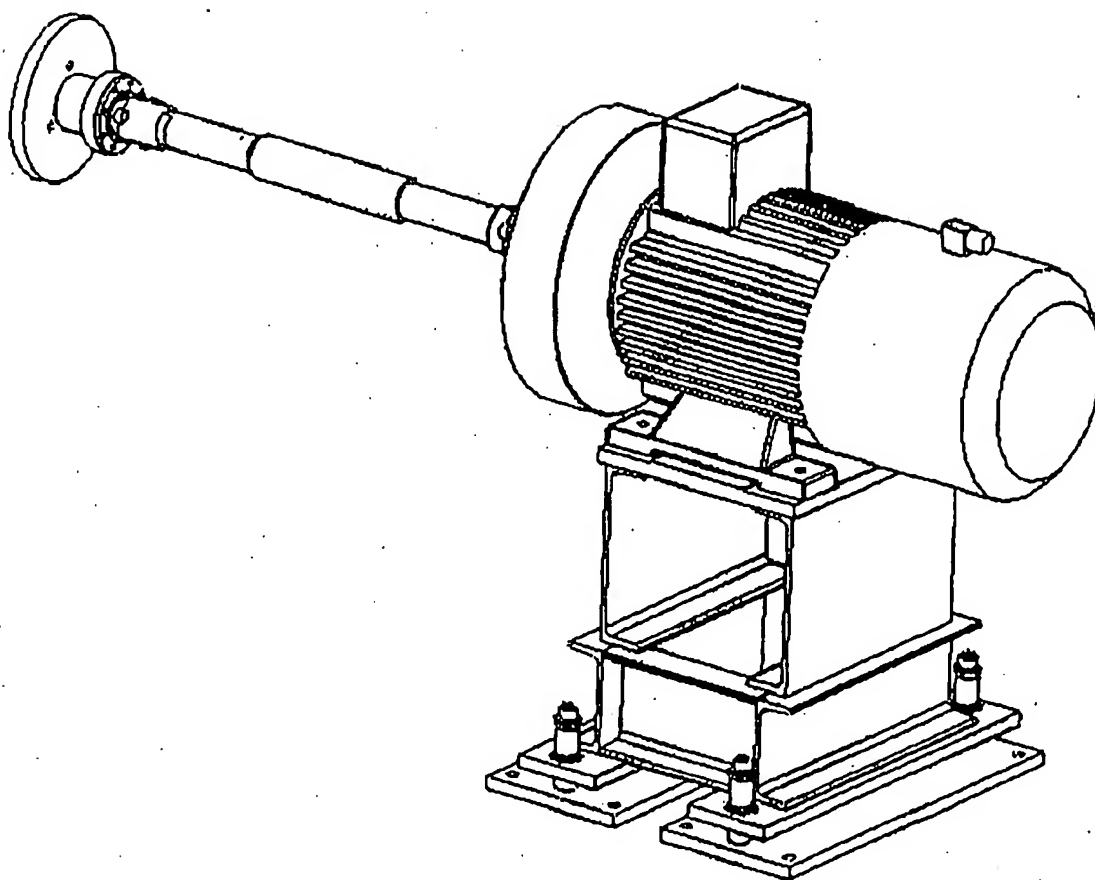


FIG. 12b

REPLACEMENT SHEET

Not Approved
EEC
8/1/07

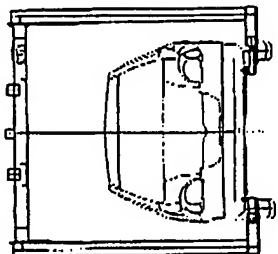


FIG 13b

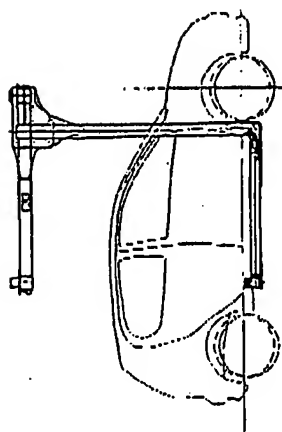


FIG. 13a

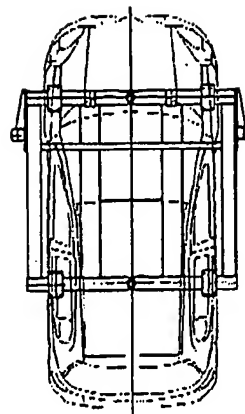


FIG. 13c

REPLACEMENT SHEET

Not approved
EEC
8/1/07

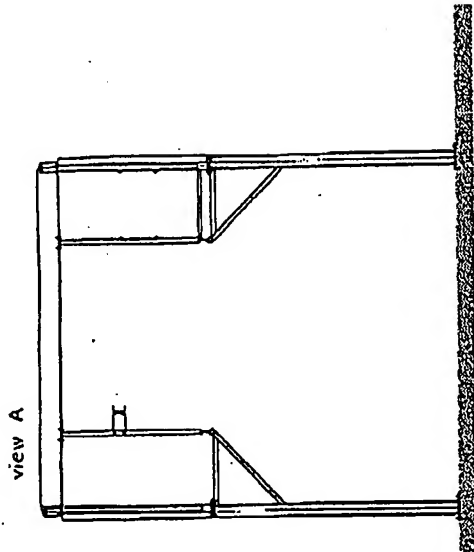


FIG. 14b

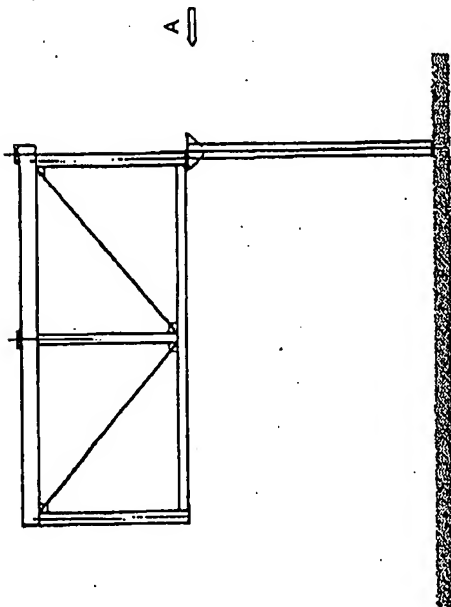


FIG 14a

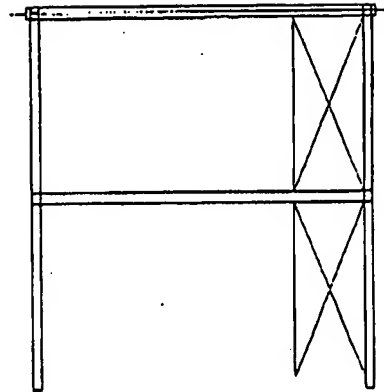


FIG. 14c